

**ORIGINAL**

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CLERK OF THE COURT

DISTRICT COURT  
CLARK COUNTY, NEVADA  
\* \* \* \* \*

STEVEN JACOBS

Plaintiff

vs.

LAS VEGAS SANDS CORP., et al..

Defendants  
.....

CASE NO. A-627691

DEPT. NO. XI

Transcript of  
Proceedings

BEFORE THE HONORABLE ELIZABETH GONZALEZ, DISTRICT COURT JUDGE

HEARING ON DEFENDANT SANDS CHINA'S MOTION TO STAY  
PROCEEDINGS PENDING WRIT PETITION

TUESDAY, JULY 19, 2011

APPEARANCES:

FOR THE PLAINTIFF:

COLBY WILLIAMS, ESQ.

FOR THE DEFENDANTS:

JUSTIN C. JONES, ESQ.  
PATRICIA GLASER, ESQ.

COURT RECORDER:

JILL HAWKINS  
District Court

TRANSCRIPTION BY:

FLORENCE HOYT  
Las Vegas, Nevada 89146

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1 LAS VEGAS, NEVADA, TUESDAY, JULY 19, 2011, 9:03 A.M.

2 (Court was called to order)

3 THE COURT: Anyone who has a plane to catch and  
4 wants the other lawyers to wait for you? Come on up.

5 MS. GLASER: Good morning, Your Honor.

6 THE COURT: 'Morning.

7 MR. JONES: 'Morning, Your Honor. Justin Jones on  
8 behalf of Las Vegas Sands.

9 MR. WILLIAMS: Good morning, Your Honor. Colby  
10 Williams on behalf of plaintiff Steve Jacobs.

11 MS. GLASER: Good morning, Your Honor. Patricia  
12 Glaser for Sands China.

13 THE COURT: And you want to thank all the counsel  
14 for letting you go first.

15 All right. So here's my question for you. Because  
16 I read through all the briefs last night and I read the  
17 affidavit and I've looked at everything, and it looks like the  
18 only thing that has changed since the last time we discussed  
19 the stay issue is that additional investigation has been done  
20 by your in-house counsel and other people working with the  
21 Macau Government to make a determination as to the extent of  
22 the work that is necessary to comply with the document  
23 requests.

24 MS. GLASER: Both the extent and the ramifications  
25 if the statute is not complied with, Your Honor.

1 THE COURT: And the cost.  
2 MS. GLASER: And the cost.  
3 THE COURT: Okay.  
4 MS. GLASER: That's not accurate. The -- since the  
5 last time we were here talking about a stay, the additional  
6 thing, if you're asking for what else has occurred, are two  
7 other things.  
8 THE COURT: Okay.  
9 MS. GLASER: One is that the Nevada Supreme Court on  
10 July 24th issued an order. I'm not suggesting for a moment it  
11 dictates what --  
12 THE COURT: They want an answer.  
13 MS. GLASER: They want an answer.  
14 THE COURT: Okay.  
15 MS. GLASER: We have a reply brief due, which I  
16 believe is August 9. The opposition is due July 25th.  
17 THE COURT: And how long do you think it's going to  
18 take them to rule on a writ given how long CityCenter's been  
19 up there?  
20 MS. GLASER: Your Honor, based on what I have been  
21 told, it is not able to be predicted.  
22 The third thing --  
23 THE COURT: The answer is it's a long time.  
24 MS. GLASER: I respect that.  
25 And the third thing, Your Honor, is that Your Honor

1 ruled on Mr. Adelson's and our, actually, corporate  
2 defendants' motion on --

3 THE COURT: The defamation motion.

4 MS. GLASER: -- the fifth cause of action. That has  
5 been appealed by the other side. And while it's been somewhat  
6 pooh-poohed in the papers as, you know, what difference does  
7 that make, it does make a difference; because it is -- it goes  
8 to the very heart of the allegations. One of the claims is --  
9 in the quote was that Mr. Jacobs was fired for cause. And the  
10 claim is that's not true. And that is going up to the Supreme  
11 Court. And that goes to the very heart of a lot of this --  
12 the fight that's here, number three, and --

13 THE COURT: Well, but I dismissed the defamation  
14 claim --

15 MS. GLASER: Yes.

16 THE COURT: -- not because the statement may or may  
17 not have been appropriate, but because it was privileged.

18 MS. GLASER: Absolutely, Your Honor.

19 THE COURT: So still discovery related to that is  
20 fair game, don't you think, because the statement is made in  
21 the context of this litigation, and it's a statement that one  
22 of the witnesses has made and I'm sure that people are going  
23 to do discovery related to whether I dismiss the claim for  
24 relief or not. Right?

25 MR. WILLIAMS: Correct.

1 THE COURT: Okay. So that's not -- that doesn't  
2 make a difference.

3 MS. GLASER: The other thing that I -- Mr. Fleming's  
4 declaration, which Your Honor's had the opportunity to read,  
5 of course, is very clear that we have a huge row to hoe in  
6 terms of time and in terms of what's ultimately going to be  
7 produced. The other side actually cited to you the Societe  
8 Generale case, and I do want to comment on that, because that  
9 case is -- it's somewhat disingenuous to talk about that.  
10 They are a plaintiff claiming that -- the plaintiff comes into  
11 the court voluntarily and says, I don't want to produce  
12 documents because I've got a discovery problem with the  
13 statute back in the country where I come from; and the court  
14 said, wait a minute, you can't have it both ways, you came in  
15 and used our jurisdiction and to be a plaintiff you've got to  
16 live with the rules here. We did not do that. We are not the  
17 plaintiff here. We are a defendant and certainly, Your Honor  
18 has probably guessed by now, unwilling defendant in this  
19 jurisdiction.

20 THE COURT: You and I have a disagreement about  
21 that, and Carson City's going to work that out some day.

22 MS. GLASER: I hundred percent agree. But at least  
23 our position is that we are -- we were dragged into this  
24 unwillingly. And the most important thing I could add to that  
25 is twofold. One, the Court has before it what we understand

1 the Macau law to be. And I understand that nobody's conceding  
2 that, but we are -- you said the last time we were here -- I  
3 wasn't here, so I'm quoting one of my partners, who said, when  
4 you get on -- in words or substance you said, when you're on  
5 the cusp of violating the law come back and see me. We are on  
6 the cusp of violating the law, Your Honor.

7 THE COURT: You're not there yet.

8 MS. GLASER: Pardon me?

9 THE COURT: I don't think you're there yet.

10 MS. GLASER: Well --

11 THE COURT: I don't think you are in the position  
12 where the production of documents that has been requested is  
13 going to cause you a problem. I think what you need to do at  
14 this point is you need to disclose the documents that are  
15 relevant and which will not in your opinion, not anybody  
16 else's, your opinion, get you in trouble with the Macau  
17 authorities. Once you have done that, I assume that Mr.  
18 Campbell and Mr. Williams are going to file a motion to  
19 compel. And then they are going to say, gosh, Judge, Sands  
20 China hasn't produced enough documents, they really need to  
21 produce all these more documents. And then you're going to  
22 say, Judge, I can't because I'd be in trouble with the Macau  
23 folks. And then I'm going to say, gosh, maybe now is the time  
24 to stay you from producing those additional documents. But  
25 I'm not there yet, because you haven't produced anything.

1 MS. GLASER: I'm going to try -- I need to say this  
2 one more time. And I know that we touched on Mr. Fleming's  
3 declaration. In order to get to the point that Your Honor's  
4 articulating -- I certainly understand what you just said. In  
5 order to get to that point the amount of review, the 2 to 13  
6 whatever it's called, megabytes --

7 THE COURT: Terabytes.

8 MS. GLASER: -- terabytes of documents is going to  
9 require us to go to Macau. We're not allowed to look at  
10 documents at a station here in --

11 THE COURT: Mr. Jones is going to go. He's already  
12 brought dolls back that broke.

13 MS. GLASER: Actually, Mr. Jones can't go.

14 MR. JONES: I'm prohibited from going, actually, by  
15 the Macau Government.

16 MS. GLASER: He is prohibited from going.

17 THE COURT: I'm sorry to hear that, Mr. Jones.

18 MS. GLASER: The only people that can go are people  
19 that represent Sands China, and they to do it in Macau. We  
20 then go document by document, and all that work has to be done  
21 before we ever get to a chat with the other side with respect  
22 to what we're able to produce and what we aren't. But what  
23 has to be done is not only do you have to -- we have to review  
24 the documents in Macau --

25 THE COURT: Correct.

1 MS. GLASER: -- which will take six to eight weeks,  
2 having done that we then must present everybody who's named on  
3 any of these emails, for example --

4 THE COURT: A consent form.

5 MS. GLASER: -- a consent form.

6 THE COURT: Right.

7 MS. GLASER: Once the consent form is signed, we  
8 then must go back to the government document by document, not  
9 just the ones that we believe may or may not be subject to the  
10 Privacy Act, because we're not taking that risk, because there  
11 are criminal sanctions, we literally are going to be in a  
12 position of having to show every document that we intend to  
13 take out of Macau and show to the other side. We must  
14 actually go to the government and get their permission. That  
15 is not only an enormously expensive task, because we will have  
16 to have reviewed all those documents, obviously, but it is a,  
17 to be kind, an unpredictable one other than being told the  
18 likelihood of us being able to produce any volume is not  
19 significant at all. And in order to avoid that huge expense  
20 and that ten -- eight to ten weeks in Macau, I think it is  
21 appropriate for Your Honor to say, you know what -- and I get  
22 your -- I get your problem about the Nevada Supreme Court  
23 acting promptly, and I understand the CityCenter comment. But  
24 the truth of the matter is --

25 THE COURT: Well, it's not because they don't work



1 hard, because they do.

2 MS. GLASER: I'm sure.

3 THE COURT: It's because their caseload is very  
4 high.

5 MS. GLASER: I appreciate that, and I --

6 THE COURT: Just so we're clear --

7 MS. GLASER: I'm not suggesting --

8 THE COURT: -- so this is on the record. And it  
9 will go to Carson City some day.

10 MS. GLASER: We're recording it, Your Honor, I  
11 understand.

12 THE COURT: I know. Just so it's clear, it's not  
13 that they don't work hard. They do work hard. They just have  
14 a tremendous workload.

15 MS. GLASER: Tremendous workload. And what I'm  
16 effectively saying is that one of the issues raised by the  
17 other side in their opposition is, well, we're controlled by  
18 Las Vegas Sands anyway. Actually, it cuts the other way.  
19 When they say they're controlled, let's test that with your  
20 discovery plan, Your Honor. Because indeed, if we're  
21 controlled by Las Vegas Sands, then they should have no  
22 problem getting the documents whether we're parties or whether  
23 there's a stay or not. So the control issue, in our judgment,  
24 is a phony issue.

25 Bottom line, the enormous expense, the -- yes, I

1 understand that there may be some delay if we're stayed and  
2 Your Honor is correct and we are incorrect with respect to  
3 whether or not the Court has jurisdiction over us, it is a  
4 very significant issue. The cases that have been cited by the  
5 other side are inapposite, and in our view, respectfully, Your  
6 Honor, I think you're doing tremendous damage to Sands China,  
7 which is by law required -- under the Hong Kong Stock Exchange  
8 rules by law required to act independently and separate from  
9 Las Vegas Sands.

10 THE COURT: I understand.

11 Mr. Williams.

12 MR. WILLIAMS: Your Honor, I know you've had a  
13 chance to read everything. I don't want to repeat what's in  
14 the briefs. I'll just focus on what I believe to be the main  
15 argument, which is not the issue of what documents are  
16 ultimately going to be withheld and not produced and thus  
17 potentially the subject of a motion to compel. They don't  
18 want to do any search at this point.

19 THE COURT: I understand.

20 MR. WILLIAMS: And so I think we've addressed it in  
21 the brief by saying they're going to have to do that search  
22 anyway. Even if they get out on jurisdiction, I think the  
23 control issue is not a phony issue. Las Vegas Sands does  
24 control Sands China, and by directing discovery requests  
25 ultimately to Las Vegas Sands seeking Sands China documents,

1 they're still going to have to engage in the same exercise  
2 they're trying to avoid now. And I realize we're not there  
3 yet. I agree it's premature, but I just want that made clear  
4 for the record.

5           The second component out there that I don't know the  
6 answer to, they can address it, is this isn't the only piece  
7 of I'll call it litigation or legal proceedings involving some  
8 or all of these issues, that the companies have announced, you  
9 know, publicly in their disclosures that there are government  
10 investigations that are seeking documents from them, as well.  
11 And my point on that is that, irrespective of the Jacobs  
12 lawsuit, they may be having to engage in this exact same  
13 process anyway, irrespective of this litigation or not. So  
14 for that reason, as well, I don't think that the argument they  
15 don't want to engage in the process at all merits a stay in  
16 this action. And I'll just leave it at that.

17           MS. GLASER: May I respond to both points?

18           THE COURT: You may.

19           MS. GLASER: The control issue test ought to be if  
20 Las Vegas -- if Counsel's accurate and Las Vegas Sands  
21 controls us, which is not the case, and I want to be very  
22 clear about that, then the way to test that is serve a  
23 subpoena on Las Vegas Sands asking Las Vegas Sands to require  
24 us to produce all the Sands China documents, and then you'll  
25 be able to test the argument. Because it's not true, number

1 one.

2           Number two, this control -- the government  
3 investigations that are occurring, they have the same  
4 roadblock, the same stone wall that every else has. They are  
5 not -- they are not even permitting the government to come in  
6 and look at documents, period. It is only Sands China lawyers  
7 who are being allowed to even start the process of reviewing  
8 documents. There are no documents that have been produced  
9 that have -- from Sands China to the federal government in any  
10 way, shape, or form. And I need to be very clear about that,  
11 Your Honor.

12           So I appreciate that Counsel doesn't have knowledge  
13 of that. I'm representing that to the Court. We understand  
14 that that is an issue that will have to be dealt with down the  
15 road. But it is certainly not happening now.

16           THE COURT: Okay. The motion is denied. At this  
17 time it is premature. As I indicated, my anticipation is that  
18 the initial document production for those documents that Ms.  
19 Glaser and her other co-counsel believe are appropriate for  
20 production need to initially be produced. If there is a  
21 limitation that is appropriate in order to avoid violation of  
22 Macau law, you should, of course, limit the production. There  
23 will then be a motion to compel, and at that point we may be  
24 in a position to address the motion for stay. Today's not the  
25 day. I keep saying that.

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Anything else?

MR. JONES: Thank you, Your Honor.

MS. GLASER: Thank you, Your Honor.

THE COURT: Have a nice day.

THE PROCEEDINGS CONCLUDED AT 9:15 A.M.

\* \* \* \* \*

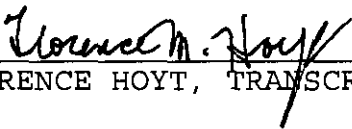
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